

The Gazette of India

EXTRAORDINARY
PUBLISHED BY AUTHORITY

NEW DELHI, MONDAY, AUGUST 11, 1947

SECRETARIAT OF THE GOVERNOR-GENERAL (REFORMS)

NOTIFICATION

New Delhi, the 11th August 1947

No. G. G. O. 3.—The following Order made by the Governor-General is published for general information :—

THE FEDERAL COURT ORDER, 1947

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. This Order may be cited as the Federal Court Order, 1947.

2. The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. In this Order,—

“the appointed day” means the fifteenth day of August 1947 ;

“the Federal Court”, where used without qualification, means the Federal Court constituted under the Government of India Act, 1935, as in force immediately before the appointed day ;

“India” means the Dominion of India ;

“Pakistan” means the Dominion of Pakistan.

4. (1) The Federal Court shall, as from the appointed day, be the Federal Court of India, and shall accordingly be deemed to have been duly constituted as such in accordance with the provisions contained in that behalf in the Government of India Act, 1935, as it applies in relation to India on and after that day.

(2) Without prejudice to the general effect of the preceding paragraph, any person who is a judge of the Federal Court immediately before the appointed day shall, as from that day, be deemed to have been duly appointed a judge of the Federal Court of India under section two hundred, or, as the case may be, section two hundred and two, of the Government of India Act, 1935, as it applies in relation to India, and shall, on and after that day, be capable of acting in his office as a judge of the Federal Court of India without making a fresh oath or observing any other formality.

(3) Any rules of the Federal Court in force immediately before the appointed day shall remain in force as from that day as if duly made by the Federal Court of India, and may be varied or revoked accordingly.

5. (1) Any proceedings pending in the Federal Court immediately before the appointed day may be continued in the Federal Court of India on and after that day :

Provided that the Federal Court of India may, if it appears to them that any such proceedings as aforesaid ought to be transferred to the Federal Court of Pakistan, direct that the proceedings shall be so transferred ; and where any such direction is given the Federal Court of Pakistan shall have jurisdiction with respect to those proceedings to the exclusion of the Federal Court of India.

(2) Where any proceedings pending in the Federal Court immediately before the appointed day are continued in the Federal Court of India on or after that day, any order made in those proceedings by the Federal Court of India, or by His Majesty in Council on appeal therefrom, shall, in addition to being enforceable in India, be enforceable in Pakistan as if it were an order made by the Federal Court of Pakistan, or, as the case may be, an order made by His Majesty in Council on appeal from that court.

(3) For the purposes of this Order proceedings shall be deemed to be pending in the Federal Court until all issues between the parties (including any issues with respect to the taxation of the costs of the proceedings) have been finally disposed of.

6. (1) Subject to the provisions hereinafter contained with respect to appeals, any order made by the Federal Court before the appointed day shall be enforceable in India as if it were an order made by the Federal Court of India, and be enforceable in Pakistan as if it were an order made by the Federal Court of Pakistan.

(2) Where any such order as is mentioned in the preceding paragraph has, whether before or after the appointed day, been confirmed, varied or reversed on appeal, the decision of His Majesty in Council on the appeal shall be enforceable in India as if the decision appealed from were a decision of the Federal Court of India, and shall be enforceable in Pakistan as if the decision appealed from were a decision of the Federal Court of Pakistan.

MOUNTBATTEN OF BURMA,

Governor-General.

K. V. K. SUNDARAM,

Officer on Special Duty.

SECRETARIAT OF THE GOVERNOR-GENERAL (REFORMS)**NOTIFICATION**

New Delhi, the 11th August 1947.

No. G. G. O. 4.—The following Order made by the Governor-General is published for general information :—

THE HIGH COURTS (BENGAL) ORDER, 1947

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. This Order may be cited as the High Courts (Bengal) Order, 1947.

2. (1) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) References herein to an order made by any court or judge shall be construed as including references to any sentence, judgment or decree passed or made by that court or judge.

3. As from the 15th day of August, 1947 (hereinafter referred to as "the appointed day"), there shall be a High Court of Judicature for the Province of East Bengal; and the said court is hereinafter referred to as the High Court of East Bengal.

4. (1) Between the coming into force of this Order and the appointed day, His Majesty may appoint a Chief Justice of the said court and may appoint such other judges of the said court as he thinks fit, and any appointments so made shall take effect as from the appointed day :

Provided that no person shall be qualified to be appointed a judge under this paragraph unless, under the law in force at the time of the making of this Order, he would have been qualified to be appointed a judge of the High Court in Calcutta, and no person shall be qualified to be appointed Chief Justice under this paragraph unless, under the said law, he would have been qualified to be appointed Chief Justice of the High Court in Calcutta.

(2) If any judge of the High Court in Calcutta, having elected to be a judge of the High Court of East Bengal, is appointed to be a judge of that court in accordance with the preceding provisions of this Order, then, as from the appointed day, the judge so appointed shall cease to be a judge of the High Court in Calcutta.

5. The High Court of East Bengal shall be a court of record, and shall have, in respect of the territories for the time being included in the Province of East Bengal, all such original appellate and other jurisdiction as, under the law in force immediately before the appointed day, is exercisable in respect of the said territories by the High Court in Calcutta.

6. (1) The High Court of East Bengal shall have the like powers to approve, admit, enrol, remove and suspend advocates, vakils and attorneys, and to make rules with respect to advocates, vakils and attorneys, as are, under the law in force immediately before the appointed day, exercisable by the High Court in Calcutta.

(2) The right of audience in the High Court of East Bengal shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court in Calcutta :

Provided that, subject to any rule made or direction given by the High Court of East Bengal in the exercise of the powers conferred by this Article, any person who, immediately before the appointed day, is an advocate, vakil or attorney entitled to practice in the High Court in Calcutta, shall be recognised as an advocate, vakil or attorney entitled to practice in the High Court of East Bengal.

7. Subject to the provisions of this Order, the law in force immediately before the appointed day with respect to practice and procedure in the High Court in Calcutta shall, with the necessary modifications, apply in relation to the High Court of East Bengal, and accordingly that High Court shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court in Calcutta :

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court in Calcutta shall, until varied or revoked by rules or orders made by the High Court of East Bengal, apply with any necessary modifications in relation to practice and procedure in the High Court of East Bengal as if made by that Court.

8. (1) The High Court of East Bengal shall have a Seal consisting of the Royal Arms, with an exergue or label surrounding the same with the inscription "The Seal of the High Court of Judicature in East Bengal".

(2) The law in force immediately before the appointed day with respect to the custody of the Seal of the High Court in Calcutta shall, with the necessary modifications, apply with respect to the custody of the Seal of the High Court of East Bengal.

9. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court in Calcutta shall, with any necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of East Bengal.

10. The law in force immediately before the appointed day relating to the powers of the Chief Justice and of single judges and divisional courts of the High Court in Calcutta, and with respect to all matters ancillary to the exercise of those powers, shall, with the necessary modifications, apply in relation to the High Court of East Bengal.

11. The High Court of East Bengal and the judges and divisional courts thereof shall sit at such places in the Province of East Bengal as the Chief Justice of the said court may, with the approval of the Governor of East Bengal, appoint.

12. Subject to any relevant provisions contained in Part IX of the Government of India Act, 1935, as it applies in Pakistan after the appointed day, the law in force immediately before the appointed day relating to appeals to His Majesty in Council from the High Court in Calcutta and the judges and divisions thereof shall, with any necessary modifications, apply in relation to appeals to His Majesty in Council from the High Court of East Bengal and the judges and divisions thereof.

13. (1) Subject as hereinafter provided, the High Court in Calcutta shall have no jurisdiction in respect of the territories for the time being included in the Province of East Bengal.

(2) Notwithstanding anything contained in this Order :—

(a) any proceedings which, immediately before the appointed day, are pending in the High Court in Calcutta on its original side, including any proceedings then pending in the said High Court as a court of reference, shall be heard and determined by that court ;

(b) the High Court in Calcutta shall have the like jurisdiction to hear and determine any appeal from an order of a judge of the said court on its original side as if this Order had not been made, and the High Court of East Bengal shall have jurisdiction to hear or determine any such appeal ; and

(c) the High Court in Calcutta shall have the like jurisdiction to review any order made by any judge of the said High Court as it would have had if this Order had not been made, and the High Court of East Bengal shall have no jurisdiction to review any such order.

(3) Subject to the preceding provisions of this Article, all proceedings pending on the appellate side of the High Court in Calcutta immediately before the appointed day, shall, where the court of origin is, as from that day, situated in the Province of East Bengal, stand transferred by virtue of this Order to the High Court of East Bengal.

(4) Subject to the following provisions of this Article with respect to appeals, any order made by the High Court in Calcutta either

(a) before the appointed day ; or

(b) in any proceedings with respect to which the said High Court retains jurisdiction by virtue of paragraphs (2) and (3) of this Article :

shall for all purposes have effect not only as an order of the High Court in Calcutta but also as an order made by the High Court of East Bengal.

(5) Subject to the following provisions of this Article with respect to appeals, any order made by the High Court of East Bengal in proceedings transferred to that High Court by virtue of this Article, shall for all purposes have effect not only as an order of that court but also as an order made by the High Court in Calcutta.

(6) Where any such order as is mentioned in paragraphs (4) and (5) of this Article has, whether before or after the appointed day, been confirmed, varied or reversed on appeal, effect shall be given to the decision of the appellate court as if the order appealed from were an order not only of the High Court by which it was made, but also of the High Court in Calcutta or the High Court of East Bengal, as the case may be.

(7) Any reference in this Article to a High Court shall be construed as including a reference to a judge or division thereof ; and for the purposes of this Article proceedings shall be deemed to be pending in a particular court until that court has disposed of all issues between the parties including any issues with respect to the taxation of the costs of the proceedings.

14. Nothing in this Order shall prejudice the application to the High Court of East Bengal of any relevant provisions of Part IX of the Government of India Act, 1935, as it applies in relation to Pakistan, and the provisions of this Order shall have effect subject to any provision made on or after the appointed day with respect to the High Court in Calcutta or the High Court of East Bengal by any legislature or other authority having power to make such provision.

MOUNTBATTEN OF BURMA,
Governor-General.

K. V. K. SUNDARAM,
Officer on Special Duty.

SECRETARIAT OF THE GOVERNOR-GENERAL (REFORMS)

NOTIFICATION

New Delhi, the 11th August 1947

No. G.G.O.5.—The following Order made by the Governor-General is published for general information :—

THE HIGH COURTS (PUNJAB) ORDER, 1947

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. This Order may be cited as the High Courts (Punjab) Order, 1947.

2. (1) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) References herein to an order made by any court or judge shall be construed as including references to any sentence, judgment or decree passed or made by that court or judge.

3. As from the 15th day of August, 1947, (hereinafter referred to as "the appointed day"), there shall be a High Court of Judicature for the Province of East Punjab; and the said court is hereinafter referred to as the High Court of East Punjab.

4. (1) Between the coming into force of this Order and the appointed day, His Majesty may appoint a Chief Justice of the said court and may appoint such other judges of the said court as he thinks fit, and any appointments so made shall take effect as from the appointed day :

Provided that no person shall be qualified to be appointed a judge under this paragraph unless, under the law in force at the time of the making of this Order, he would have been qualified to be appointed a judge of the High Court at Lahore, and no person shall be qualified to be appointed Chief Justice under this paragraph unless, under the said law, he would have been qualified to be appointed Chief Justice of the High Court at Lahore.

(2) If any judge of the High Court at Lahore, having elected to be a judge of the High Court of East Punjab, is appointed to be a judge of that court in accordance with the preceding provisions of this Order, then, as from the appointed day, the judge so appointed shall cease to be a judge of the High Court at Lahore.

5. The High Court of East Punjab shall be a Court of record, and shall have, in respect of the territories for the time being included in the Province of East Punjab and in the Province of Delhi, all such original appellate and other jurisdiction as, under the law in force immediately before the appointed day, is exercisable in respect of the said territories by the High Court at Lahore.

6. (1) The High Court of East Punjab shall have the like powers to approve, admit, enrol, remove and suspend advocates, vakils and attorneys, and to make rules with respect to advocates, vakils and attorneys, as are, under the law in force immediately before the appointed day, exercisable by the High Court at Lahore.

(2) The right of audience in the High Court of East Punjab shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court at Lahore :

Provided that, subject to any rule made or direction given by the High Court of East Punjab in the exercise of the powers conferred by this Article, any person who, immediately before the appointed day, is an advocate, vakil or attorney entitled to practise in the High Court at Lahore, shall be recognised as an advocate, vakil or attorney entitled to practise in the High Court of East Punjab.

7. Subject to the provisions of this Order, the law in force immediately before the appointed day with respect to practice and procedure in the High Court at Lahore shall, with the necessary modifications, apply in relation to the High Court of East Punjab, and accordingly that High Court shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court at Lahore :

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court at Lahore shall, until varied or revoked by rules or orders made by the High Court of East Punjab, apply with any necessary modifications in relation to practice and procedure in the High Court of East Punjab as if made by that Court.

8. (1) The High Court of East Punjab shall have a Seal consisting of the Royal Arms with an exergue or label surrounding the same with the inscription " The Seal of the High Court of Judicature in East Punjab ".

(2) The law in force immediately before the appointed day with respect to the custody of the Seal of the High Court at Lahore shall, with the necessary modifications, apply with respect to the custody of the Seal of the High Court of East Punjab.

9. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court at Lahore shall, with any necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of East Punjab.

10. The law in force immediately before the appointed day relating to the powers of the Chief Justice and of single judges and divisional courts of the High Court at Lahore, and with respect to all matters ancillary to the exercise of those powers, shall, with the necessary modifications, apply in relation to the High Court of East Punjab.

11. The High Court of East Punjab and the judges and divisional courts thereof shall sit at such places in the Provinces of East Punjab and Delhi as the Chief Justice of the said court may, with the approval of the Governor of East Punjab, appoint.

12. Subject to any relevant provisions contained in Part IX of the Government of India Act, 1935, as it applies in India after the appointed day, the law in force immediately before the appointed day relating to appeals to His Majesty in Council from the High Court at Lahore and the judges and divisions thereof shall, with any necessary modifications, apply in relation to appeals to His Majesty in Council from the High Court of East Punjab and the judges and divisions thereof.

13. (1) Subject as hereinafter provided, the High Court at Lahore shall have no jurisdiction in respect of the territories for the time being included in the Province of East Punjab or in the Province of Delhi.

(2) Notwithstanding anything contained in this Order :—

(a) any proceedings which, immediately before the appointed day, are pending in the High Court at Lahore on its original side, including any proceedings then pending in the said High Court as a court of reference, shall be heard and determined by that court ;

(b) the High Court at Lahore shall have the like jurisdiction to hear and determine any appeal from an order of a judge of the said court on its original side as if this Order had not been made, and the High Court of East Punjab shall have jurisdiction to hear or determine any such appeal ; and

- (c) the High Court at Lahore shall have the like jurisdiction to review any order made by any judge of the said High Court as it would have had if this Order had not been made, and the High Court of East Punjab shall have no jurisdiction to review any such order.

(3) Subject to the proceeding provisions of this Article, all proceedings pending on the appellate side of the High Court at Lahore immediately before the appointed day, shall, where the court of origin is, as from that day, situated in the Province of East Punjab or in the Province of Delhi, stand transferred by virtue of this Order to the High Court of East Punjab.

(4) Subject to the following provisions of this Article with respect to appeals, any order made by the High Court at Lahore either—

(a) before the appointed day ; or

(b) in any proceedings with respect to which the said High Court retains jurisdiction by virtue of paragraphs (2) and (3) of this Article ;

shall for all purposes have effect not only as an order of the High Court at Lahore but also as an order made by the High Court of East Punjab.

(5) Subject to the following provisions of this Article with respect to appeals, any order made by the High Court of East Punjab in proceedings transferred to that High Court by virtue of this Article shall for all purposes have effect not only as an order of that court but also as an order made by the High Court at Lahore.

(6) Where any such order as is mentioned in paragraphs (4) and (5) of this Article has, whether before or after the appointed day, been confirmed, varied or reversed on appeal, effect shall be given to the decision of the appellate court as if the order appealed from were an order not only of the High Court by which it was made, but also of the High Court at Lahore or the High Court of East Punjab, as the case may be.

(7) Any reference in this Article to a High Court shall be construed as including a reference to a judge or division thereof; and for the purposes of this Article proceedings shall be deemed to be pending in a particular court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings.

14. Nothing in this Order shall prejudice the application to the High Court of East Punjab of any relevant provisions of Part IX of the Government of India Act, 1935, as it applies in relation to India, and the provisions of this Order shall have effect subject to any provision made on or after the appointed day with respect to the High Court at Lahore or the High Court of East Punjab by any legislature or other authority having power to make such provision.

MOUNTBATTEN OF BURMA,

Governor-General.

K. V. K. SUNDARAM,

Officer on Special Duty.

SECRETARIAT OF THE GOVERNOR-GENERAL (REFORMS)**NOTIFICATION***New Delhi, the 11th August 1947.*

No. G. G. O. 6.—The following Order made by the Governor-General is published for general information :—

THE HIGH COURT (CALCUTTA) ORDER, 1947

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. This Order may be cited as the High Court (Calcutta) Order, 1947.

2. (1) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) In this Order :—

“the appointed day” means the 15th day of August 1947 ;

“the High Court in Calcutta” means the High Court of Judicature at Fort William in Bengal, constituted in accordance with Letters Patent, dated the 28th December, 1865.

3. The High Court in Calcutta shall continue to exist on and after the appointed day, and shall, save as expressly provided by the High Courts (Bengal) Order, 1947, have all such original appellate and other jurisdiction as it had immediately before that day.

4. Without prejudice to the general effect of the preceding Article, any person holding office as a Judge of the High Court in Calcutta immediately before the appointed day (including the person holding office as Chief Justice of the said Court and any person holding office as a temporary or additional judge thereof) shall, subject to the provisions of the High Courts (Bengal) Order, 1947, continue, as from that day, to hold the like office on the same terms and conditions as were applicable in his case immediately before that day.

5. Subject to any general or special orders or arrangements affecting his case, any person who immediately before the appointed day is serving as a clerk or other officer of the High Court in

Calcutta shall, as from that day, remain in the service of the said Court on the like terms and conditions as were applicable to him immediately before that day :

Provided that the Chief Justice of the said Court may, on or after the appointed day, determine the appointment of any such person as aforesaid if he thinks it expedient so to do having regard to any changes effected by or under the Indian Independence Act, 1947.

6. Any rules or orders with respect to practice or procedure in force in the High Court in Calcutta immediately before the appointed day shall remain in force as from that day until altered or modified by a competent authority.

7. Nothing in this Order shall prejudice the application to the High Court in Calcutta of any relevant provisions of Part IX of the Government of India Act, 1935, as it applies in relation to the Dominion of India ; and the provisions of this Order shall have effect subject to any provision made on or after the appointed day with respect to the High Court in Calcutta by any legislature or other authority having power to make such provision.

MOUNTBATTEN OF BURMA,

Governor-General.

K. V. K. SUNDARAM,

Officer on Special Duty.

SECRETARIAT OF THE GOVERNOR-GENERAL (REFORMS)**NOTIFICATION**

New Delhi, the 11th August, 1947.

No. G.G.O. 7.—The following Order made by the Governor-General is published for general information :—

THE HIGH COURT (LAHORE) ORDER, 1947

In exercise of the powers conferred by section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order :—

1. This Order may be cited as the High Court (Lahore) Order, 1947.

2. (1) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) In this Order :—

“the appointed day” means the 15th day of August, 1947 ;

“the High Court at Lahore” means the High Court of Judicature at Lahore, established by Letters Patent, dated the 21st March, 1919.

3. The High Court at Lahore shall continue to exist on and after the appointed day, and shall, save as expressly provided by the High Courts (Punjab) Order, 1947, have all such original appellate and other jurisdiction as it had immediately before that day.

4. Without prejudice to the general effect of the preceding Article, any person holding office as a judge of the High Court at Lahore immediately before the appointed day (including the person holding office as Chief Justice of the said Court and any person holding office as a temporary or additional judge thereof) shall, subject to the provisions of the High Courts (Punjab) Order, 1947, continue, as from that day, to hold the like office on the same terms and conditions as were applicable in his case immediately before that day.

5. Subject to any general or special orders or arrangements affecting his case, any person who immediately before the appointed day is serving as a clerk or other officer of the High Court at Lahore shall, as from that day, remain in the service of the said Court on the like terms and conditions as were applicable to him immediately before that day :

Provided that the Chief Justice of the said Court may, on or after the appointed day, determine the appointment of any such person as aforesaid if he thinks it expedient so to do having regard to any changes effected by or under the Indian Independence Act, 1947.

6. Any rules or orders with respect to practice or procedure in force in the said High Court at Lahore immediately before the appointed day shall remain in force as from that day until altered or modified by a competent authority.

7. Nothing in this Order shall prejudice the application to the High Court at Lahore of any relevant provisions of Part IX of the Government of India Act, 1935, as it applies in relation to the Dominion of India, and the provisions of this Order shall have effect subject to any provision made on or after the appointed day with respect to the High Court at Lahore by any legislature or other authority having power to make such provision.

MOUNTBATTEN OF BURMA,

Governor-General.

K. V. K. SUNDARAM,

Officer on Special Duty.

